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APPLICATION NO.	FILING DATE	FIRST-NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/045,118 03/20/98 SUZUKI

K 980268

EXAMINER

MM91/0103

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MCLELAND & NAUGHTON
1725 K. STREET NW SUITE 1000
WASHINGTON DC 20006

BEREZNY, N.

ART-UNIT

PAPER NUMBER

2823

DATE MAILED:

01/03/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No.	Applicant(s)
	09/045,118	SUZUKI ET AL.
	Examiner	Art Unit
	Neal Berezny	2823

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 12 October 2000.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) 1-27 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 28-41 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 20 March 1998 is/are objected to by the Examiner.
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

- 15) Notice of References Cited (PTO-892)
- 16) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 18) Interview Summary (PTO-413) Paper No(s). _____
- 19) Notice of Informal Patent Application (PTO-152)
- 20) Other: _____

DETAILED ACTION

Response to Amendment

1. The reply filed on 10/12/00 is not fully responsive to the prior Office action and the amendment to the claims has not been entered, because the amendment requests the addition of more than five words in at least one claim. See 37 CFR 1.121(a)(2)(i) below:

- (i) Instructions for insertions and deletions: A claim may be amended by specifying only the exact matter to be deleted or inserted by an amendment and the precise point where the deletion or insertion is to be made, where the changes are limited to:
- (A) Deletions and/or
 - (B) The addition of no more than five (5) words in any one claim; or

The amendment to the claims should be made in accordance with 37 CFR 1.121(a)(2)(ii) which states:

- (ii) Claim cancellation or rewriting: A claim may be amended by directions to cancel the claim or by rewriting such claim with underlining below the matter added and brackets around the matter deleted. The rewriting of a claim in this form will be construed as directing the deletion of the previous version of that claim. If a previously rewritten claim is again rewritten, underlining and bracketing will be applied relative to the previous version of the claim, with the parenthetical expression "twice amended," "three times amended," etc., following the original claim number. The original claim number followed by that parenthetical expression must be used for the rewritten claim. No interlineations or deletions of any prior amendment may appear in the currently submitted version of the claim. A claim canceled by amendment (not deleted and rewritten) can be reinstated only by a subsequent amendment presenting the claim as a new claim with a new claim number.

2. The reply filed on 10/12/00 is not fully responsive to the prior Office Action because: amendment B, paper 13, filed 6/7/00, was not entered, see par. 1, line 2, of the last office action, mailed 8/15/00, yet applicant's response appears to presume that amendment B was entered.

A. If examiner assumes that amendment B was not entered, then amended claims 33 and 41 in amendment C, filed 10/12/00, fail to comply with the above cited

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regulations by not including all the deletions and additions from the original claims of amendment A, filed 3/20/98. Also claim 41 could not have been amended twice.

B. If examiner assumes that amendment B should be entered, without applicant's authorization, then examiner's action could be construed as improper, resulting in an undue burden to examiner to redo the previous action. In addition, entering amendment B would also fail to comply with the above cited regulations by not including all the deletions and additions from the original claims of amendment A, filed 3/20/98. Further, claim 41 would have been canceled in amendment B, and therefore, could not be pending and amended, as stated in amendment C.

3. Since the period for reply set forth in the prior Office action has expired, this application will become abandoned unless applicant corrects the deficiency and obtains an extension of time under 37 CFR 1.136(a).

4. The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. In no case may an applicant reply outside the SIX (6) MONTH statutory period or obtain an extension for more than FIVE (5) MONTHS beyond the date for reply set forth in an Office action. A fully responsive reply must be timely filed to avoid abandonment of this application.

CONCLUSION

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neal Berezny whose telephone number is (703) 305-1481. The examiner can normally be reached on Monday to Friday from 7:00 to 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wael Fahmy, can be reached at (703) 308-4918. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7724.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



SUPERVISORY PRIMARY EXAMINER
TECHNOLOGY CENTER 2800


Neal Berezny
1-1-01

Neal Berezny
Patent Examiner
Art Unit 2823